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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/766,577	01/23/2001	Norio Nagai	0905-0254P-SP	2339
2292	7590	01/27/2005	EXAMINER	
BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			MISLEH, JUSTIN P	
			ART UNIT	PAPER NUMBER

2612

DATE MAILED: 01/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/766,577	Applicant(s) NAGAI, NORIO	
	Examiner Justin P Misleh	Art Unit 2612	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 August 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 - 4 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, and 4 is/are rejected.
- 7) ☒ Claim(s) 1 - 3 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 January 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to Claims 1 and 2 have been considered but are moot in view of the new grounds of rejection.
2. The Examiner does NOT approve Applicant's amendment to the title; thus, the objection to the title stands.
3. Because Claims 1 and 2 are original claims and are also given a new grounds of rejection, this Office Action is Non-Final and is meant to replace the Non-Final Office Action mailed 3 May 2004.

Specification

4. The amended title of the invention is still not descriptive. A new title is required that is CLEARLY indicative of the invention to which the claims are directed. The Examiner recommends the following title: Image Sensing Apparatus for Designating and Illuminating an Electronic Zoom Area for an Image.

Claim Objections

5. **Claims 1 and 2** are objected to because of the following informalities: typographical errors.

Claims 1 and 2 recite on the second line of the claim, "sensing the image of a subject," without first introducing "an image of a subject."

Appropriate correction is required.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. **Claims 1, 2, and 4** are rejected under 35 U.S.C. 103(a) as being unpatentable over Kowno et al. in view of Miyawaki et al.

Summary of Kowno et al.

8. Kowno et al. disclose, as stated in paragraphs 42, 56, 78, 81, 99, 157, 159, 162, 163, 170, 176, 184, and 185, an image sensing apparatus (1 – figures 1 – 4) comprising optical zooming (via the lens system 3 – figures 1 – 4) and electronic zooming (via CPU 39 – figure 4) wherein the zooming is actuated via a standard telephoto/wide angle switch (15 – figure 1) or via a user designation (see figures 8 – 11) on an display screen (via LCD 6 – figures 2 and 4). Kowno et al. also disclose that during image composition, when a preview image is displayed on the display screen (6), a user may operate the switch (15) or may designate, using the touch tablet (6A – figures 2 and 4), an area (via “a”, “b”, and “X” – figure 8) on the display screen (6) to perform zooming on the preview image (see transition from figures 8 → 9). According to Kowno et al., the zooming maybe strictly optical zooming by adjusting the focal length of a lens system (3 – paragraph 157), maybe strictly digital zooming by enlarging through interpolation (paragraph 157), or maybe a combination of optical zooming and digital zooming (paragraph 181). Lastly,

Art Unit: 2612

Kowno et al. disclose a strobe/flash (4) for illuminating a scene, as necessary, during image composition (paragraph 42, 78, and 99).

9. For **Claims 1 and 2**, the claim language includes the following limitation: “a light-emission control unit for controlling a strobe-light emission device in such a manner that a part of the subject that corresponds to an image within the electronic zoom area is illuminated with strobe light.” The Examiner believes the above-identified limitation is written broadly enough such that illuminating an entire sensed image, as disclosed by Kowno et al., fully encompasses illuminating a part of the subject that corresponds to an image within the electronic zoom area in the entire sensed image. In other words, since the electronic zoom area is designated within an image that is illuminated with a strobe/flash, any image in that electronic zoom area is also illuminated with the strobe/flash. The Examiner believes the above-identified limitation is intended to correspond to steps 26 and 27 in figure 4; however, the claim language is written broadly enough such that it does not strictly follow steps 26 and 27.

Thus, Kowno et al. disclose an image sensing apparatus (1) and a method of operating thereof comprising:

an image sensing device (CCD 20) for sensing the image of a subject and outputting image data representing the image of the subject;

a display control unit (CPU 39) for controlling a display unit (LCD 6) in such a manner that the image of the subject represented by the image data output from said image sensing device (CCD 20) will be displayed on a display screen (LCD 6);

a designating unit (Touch Tablet 6A) for designating an electronic zoom area (figures 8 and 9) in the image of the subject displayed on the display screen (LCD 6);

a light-emission control unit (Strobe Driving Circuit 37) for controlling a strobe-light emission device (Strobe 4) in such a manner that a part of the subject that corresponds to an image within the electronic zoom area is illuminated with strobe light (see Examiner's interpretation above).

While Kowno et al. disclose a recording control unit (CPU 39) for recording, on a recording medium (Memory Card 24), an image that has been captured by the image sensing device (CCD 20) after the image has been composed; Kowno et al. does not specifically disclose recording on the recording medium image data output from said image sensing device AND data indicating position of the electronic zoom area OR image data representing the image with the electronic zoom area.

On the other hand, Miyawaki et al. also disclose an image sensing apparatus for sensing an image of a subject and a designating unit for designating an electronic zoom area in the image of the subject. More specifically, Miyawaki et al. teach, as shown in figures 11 – 13, an image sensing apparatus for sensing an image of a subject (101) and a designating unit (104) for designating an electronic zoom area in the image of the subject (see sequence in figure 12). Furthermore, Miyawaki et al. also teach, as shown in figure 14 and as stated in column 13 (lines 18 – 54), that an image corresponding to an image within the electronic zoom area (child image plane) and that the sensed image (total image plane) may be superimposed and recorded in a recording medium (103). Therefore, Miyawaki et al. provides recording on the recording medium (103) image data output from said image sensing device (total image plane) AND image data representing the image with the electronic zoom area (child image plane).

As stated in column 14 (lines 30 – 39), at the time the invention was made, it would have been obvious to one with ordinary skill in the art have recording on the recording medium image data output from said image sensing device and image data representing the image with the electronic zoom area, as taught by Miyawaki et al., in the image sensing apparatus, disclosed by Kowno et al., for the advantage of providing a user perspective on the accuracy of user instructed image composition.

10. As for **Claim 4**, Kowno et al. disclose, as shown in figures 8 and 9, wherein the image comprises a marking that is displayed at a center point of the electronic zoom area (Marking “a”).

Allowable Subject Matter

11. **Claim 3** is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter:

While the closest prior art teach of an image sensing apparatus comprising a strobe/flash unit for illuminating a scene and a designating unit for designating an electronic zoom area within that scene; the closest prior art does not teach or fairly suggest wherein an optic axis of the strobe/flash unit coincides with a center point of the electronic zoom area.

Conclusion

12. The prior art made of record and not relied upon is considered pertinent to Applicant's disclosure. The following is a brief description of each of the cited prior art not used in the rejections, as labeled on the attached form PTO-892:

- **Prior Art C** discloses, in the very least, an image processing apparatus with an electronic zooming device for electronically enlarging the image around a selected position in the image area, and a display control circuit for displaying an area to be enlarged, in the image area, prior to the image enlargement in the electronic zooming operation.

Art Unit: 2612

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Justin P Misleh whose telephone number is 703.305.8090 (571.272.7313 ~ March 2005). The Examiner can normally be reached on Monday through Thursday from 7:30 AM to 5:00 PM and on alternating Fridays from 8:00 AM to 4:30 PM.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Wendy R Garber can be reached on 703.305.4929. The fax phone number for the organization where this application or proceeding is assigned is 703.872.9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JPM
January 24, 2005


TUAN HO
PRIMARY EXAMINER